

Interim Decision #2114

MATTER OF ORTEGA-MOJARO

In Deportation Proceedings

A-19107467

Decided by Board October 2, 1970

Under the authority of section 287, Immigration and Nationality Act, the immigration officer had the power without a warrant to detain and interrogate respondent on April 8, 1970, when he was a passenger in an automobile in Los Angeles County, California, as to his right to be or remain in the United States. Further, under 8 CFR 287.1(a) (1) and (2), the immigration officer had authority to apprehend respondent within a "reasonable distance" of an external border of the United States, which is defined by those regulations as 100 air miles from a border.*

CHARGE:

Order: Act of 1952—Section 241(a) (2) [8 U.S.C. 1251(a) (2)]—Entry without inspection.

ON BEHALF OF RESPONDENT: David C. Marcus, Esquire
215 West Fifth Street
Los Angeles, California 90013

The respondent appeals the decision of the special inquiry officer finding him deportable as charged, denying his application for voluntary departure and ordering that he be deported to Mexico on the charge contained in the order to show cause. The appeal will be dismissed.

The respondent is a 45-year-old male alien, who testified at the deportation hearing that he was not a citizen or national of the United States but was a native and citizen of Mexico. The respondent, on advice of counsel, refused to furnish any information at the hearing as to the time, place and manner of his entry into the United States. He did request the privilege of voluntary departure, but this was properly denied by the special inquiry officer because the respondent refused to testify as to his eligibility for such relief.

* Affirmed, *Ortega-Mojaro v. INS*, No. 26580, C.A. 9, May 11, 1971; cert. den., No. 71-5014, Oct. 19, 1971.